HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.10214 of 1996

Between:

Sathi Mangatayaru … Petitioner

And

Mandal Revenue Officer-cum-Mandal

Revenue Magistrate, Undrajavaram Mandal,

West Godavari District and another.

… Respondents

:: ORDER::

Counsel for the Petitioner: Sri C. Ramachandra Raju

Counsel for Respondents: Government Pleader for Revenue

June 08, 2006

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Per G.S. Singhvi, CJ

This is a petition for quashing order dated 24-5-1996 passed by Mandal Executive Magistrate, Undrajavaram Mandal, West Godavari District whereby the officer concerned directed the petitioner to stop construction of the poultry farm building in Revenue Survey No.344/1, Kaldhari Village and to remove the existing pillars.

In the affidavit filed by her, the petitioner has averred that she started construction of building for poultry farm after obtaining permission from District Medical and Health Officer, West Godavari District, Eluru. She has further averred that after constructing two sheds in the year 1991, she has been doing poultry business without any complaint. In 1995, she applied for grant of permission for extension of the poultry farm. Her application was accepted by the District Medical and Health Officer. Thereafter, she started constructing sheds at a distance of 400 feet from the existing structure. At that stage, some rivals in the village made complaint to the Mandal Revenue Officer-cum-Mandal Revenue Magistrate who, without giving notice and without hearing her, passed the impugned order. She has further averred that the poultry farm is not causing any nuisance or injury to anybody and, therefore, there is no justification for restraining her from raising construction or requiring her to demolish the existing construction.

In the counter affidavit filed by Sri Kola Satyanarayana, Mandal Revenue Officer, Undrajavaram, an attempt has been made to justify the impugned order by asserting that the petitioner is running poultry farm near the colony of weaker sections and is causing a nuisance for the residents. However, it has not been denied that the order

under challenge was passed without giving notice and opportunity of hearing to the petitioner.

I have heard learned counsel for the parties and perused the record. Since the respondents have not controverted the petitioner's assertion that the impugned order was passed without giving her action oriented notice and opportunity of hearing, there is no escape from the conclusion that the same is vitiated due to violation of the rules of natural justice.

The question whether the rules of natural justice are applicable to purely administrative proceedings and actions must be answered in affirmative in view of the judgments of the Supreme Court in **State of Orissa v. Binapani Dei**, **Maneka Gandhi v. Union of India**, **Syeedur Rehman v. State of Bihar**, **S.L. Kapoor v. Jagmohan**, **Olga Tellis v. Bombay Municipal Corporation**.

For the reasons stated above, the writ petition is allowed and order dated 24-5-1996 passed by respondent No.1 is quashed. However, it is made clear that this shall not prevent the competent authority from passing appropriate order or taking appropriate action in accordance with law.

G.S. SINGHVI, CJ

June 08, 2006

ARS/ svs